



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket Nos. 13-87, 06-229; WT Docket No. 96-86; RM-11433, RM-11577; FCC 13-40]

Service Rules Governing Public Safety Narrowband Operations in the 769-775/799-805 MHz Bands;

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on proposals to amend the Commission's rules to promote spectrum efficiency, interoperability, and flexibility in 700 MHz public safety narrowband operations (769-775/799-805 MHz). By this action, the Commission affords interested parties an opportunity to submit comments on these proposed rule changes.

DATES: Comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESS: You may submit comments, identified by PS Docket No. 13-87, by any of the following methods:

- Federal Communications Commission's web site: <http://fjallfoss.fcc.gov/ecfs2/>.
Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Brian Marengo, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418-0838.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 13-40, released on April 1, 2013. The document is available for download at http://fjallfoss.fcc.gov/edocs_public/. The complete text of this document is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

1. In the Notice of Proposed Rulemaking (NPRM) in PS Docket No. 13-87, the Commission initiates a new proceeding to seek comment on proposals to amend the Commission's rules governing 700 MHz public safety narrowband operations (769-775/799-805 MHz). The Commission seeks comment on whether to extend or eliminate the December 31, 2016 narrowbanding deadline for 700 MHz public safety narrowband licensees to transition from 12.5 kilohertz to 6.25 kilohertz channel bandwidth technology.
2. The Commission also seeks comment on a proposal from the National Public Safety Telecommunications Council (NPSTC) to authorize secondary use of certain channels in the 700 MHz band for public safety aircraft voice operations. Furthermore, the Commission seeks comment on additional NPSTC proposals to modify the rules governing use of the designated nationwide interoperability channels, data-only interoperability channels, reserve channels, and low power channels.
3. Finally, the Commission seeks comment on a number of other issues, including adjacent channel power (ACP) limits for signal boosters, harmonizing power limits, certifying Project 25 equipment and establishing a standardized Network Access Code (NAC) for operation on 700 MHz interoperability channels.

4. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to the NPRM should refer to **PS Docket No. 13-87**. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs>. Filers should follow the instructions provided on the website for submitting comments.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

5. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

6. Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) Access ECFS at <http://www.fcc.gov/cgb/ecfs>. (2) In the introductory screen, click on "Search for Filed Comments." (3) In the "Proceeding" box, enter the numerals in the docket number. (4) Click on the box marked "Retrieve Document List." A link to each document is provided in the document list. The public may inspect and copy filings and comments during regular business hours at the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. The public may also purchase filings and comments from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail to fcc@bcpiweb.com. The public may also download this NPRM from the Commission's web site at <http://www.fcc.gov/>.

7. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

8. Commenters who file information that they believe should be withheld from public inspection may request confidential treatment pursuant to § 0.459 of the Commission's rules. Commenters should file both their original comments for which they request confidentiality and redacted comments, along with their request for confidential treatment. Commenters should not file proprietary information electronically. See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, 13 FCC Rcd 24816 (1998), Order on Reconsideration, 14 FCC Rcd 20128 (1999). Even if the Commission grants confidential treatment, information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA) must be publicly disclosed pursuant to an appropriate request. See 47 CFR 0.461; 5 U.S.C. 552. We note that the Commission may grant requests for confidential treatment either conditionally or unconditionally.

As such, we note that the Commission has the discretion to release information on public interest grounds that does fall within the scope of a FOIA exemption.

9. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”), the Commission has prepared this present Initial Regulatory Flexibility Analysis (“IRFA”) of the possible significant economic impact on a substantial number of small entities that might result from adoption of the rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the applicable deadlines for initial comments, or reply comments, as specified in the Further Notice of Proposed Rulemaking. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (“SBA”).

B. Need for, and Objectives of, the Proposed Rules

11. In the NPRM, the Commission seeks comment on further proposals to amend the Commission’s rules governing 700 MHz public safety narrowband spectrum at 769-775 MHz and 799-805 MHz. The rule changes the Commission seeks comment on are intended to promote flexible and efficient use of public safety narrowband spectrum in the 700 MHz band while reducing the regulatory burdens on licensees wherever possible. In order to achieve these objectives, the Commission seeks comment in the NPRM on:

- extending or eliminating the December 31, 2016 narrowbanding deadline for 700 MHz public safety narrowband licensees;
- allowing 700 MHz public safety narrowband licensees to use the secondary trunking channels for low-altitude, low power air-ground voice communications;
- redesignating two 6.25 kilohertz bandwidth nationwide calling channels as Nationwide Interoperability Travel Channels;
- allowing tactical voice communications on a secondary basis on the two 6.25 kilohertz bandwidth data-only interoperability channels;

- designating the forty-eight 6.25 kilohertz bandwidth reserve channel pairs for use by temporary deployable mobile trunked infrastructure that could be transported into an incident area to assist with emergency response and recovery;
- increasing the two-watt power limit for low power channels to 20 watts effective radiated power (ERP);
- requiring all 700 MHz narrowband equipment to be certified under the TIA Project 25 Compliance Assessment Program (P25 CAP);
- exempting Class B signal boosters from the Adjacent Channel Power (ACP) limits when retransmitting multiple signals;
- harmonizing and eliminating redundant or conflicting power limits for transmitters operating on the 700 MHz public safety narrowband channels;
- specifying by rule a standardized Network Access Code (NAC) for operation on the 700 MHz interoperability channels;
- clarifying that our rules require radios to be capable of being programmed to operate on all sixty-four of the 6.25 kilohertz bandwidth interoperability channels in the 700 MHz band;
- permitting users to operate their mobile and portable equipment in analog mode on the interoperability channels.

C. Legal Basis

12. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 4(i), 303, 316, 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 154(i), 303, 316, 332, and 337.

D. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

13. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

14. Public Safety Radio Licensees. As a general matter, Public Safety Radio licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. For the purpose of determining whether a Public Safety Radio licensee is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require Public Safety Radio licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many Public Safety Radio licensees constitute small entities under this definition.

15. Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.” The SBA has developed a small business size standard for Radio and Television

Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had less than 100 employees and 148 had more than 100 employees. Thus, under that size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

16. No rule proposed in the NPRM will entail additional reporting, recordkeeping, and/or third-party consultation. Two proposed rules in the NPRM, however, would entail additional compliance efforts as described below.

17. Project 25 Compliance Assessment Program. We propose to require all vendors of 700 MHz narrowband equipment designed to operate on the interoperability channels to demonstrate compliance with the Project 25 Compliance Assessment Program (CAP). CAP is a voluntary program that establishes an independent compliance assessment process to ensure that communications equipment conforms to Project 25 standards and is interoperable across vendors. The purpose of this proposal is to enhance interoperability and provide assurance to licensees that their equipment is interoperable across vendors regardless of which vendor they choose.

18. Interoperability Network Access Code. We seek comment on whether to specify a standardized Network Access Code (NAC) by rule for operation on the 700 MHz interoperability channels. A NAC is a pre-programmed digital address used by radio units employing the Project 25 standard to “hear” only communications directed to that address from another radio. We seek comment on whether a standardized NAC is necessary to ensure all radio users can communicate with each other on the interoperability channels.

F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

19. The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for small entities.”

20. The NPRM seeks comment on a number of proposed changes to the rules covering operation of public safety systems on narrowband spectrum in the 700 MHz band. The NPRM seeks comment on whether the proposed rule changes will promote efficient use of public safety narrowband spectrum in the band while reducing economic burdens on licensees. In order to strike the proper balance between these two objectives, the NPRM seeks comment on a wide range of alternatives to the proposals put forth.

21. Deadline for Narrowbanding Transition to 6.25 Kiloherzt Technology. The NPRM seeks comment on petitions filed separately by the 700 MHz Region 24 Planning Committee, the State of Louisiana, and the Regional Wireless Cooperative seeking to delay the December 31, 2016 deadline for transition to 6.25 kilohertz-capable equipment. Public safety licensees operating on narrowband spectrum in the 700 MHz band have until December 31, 2016 to complete a mandatory migration from a 12.5 kilohertz voice efficiency standard to a 6.25 kilohertz voice efficiency standard. These parties seek an extension of the deadline in order to ensure that equipment purchased by public safety licensees for operation in the band need not be replaced before its intended life cycle is met. The NPRM seeks comment on extending the December 31, 2016 deadline and factors to be considered if a new deadline is selected. Alternatively, the

NPRM seeks comment on whether the long-term future of the 700 MHz narrowband spectrum would be best served by suspending or eliminating the mandatory migration to a 6.25 kilohertz voice efficiency standard.

22. Air-Ground Communications on Secondary Trunking Channels. The NPRM seeks comment on a proposal by the National Public Safety Telecommunications Council (NPSTC) to allow 700 MHz public safety narrowband licensees to use the secondary trunking channels for low-altitude, low power air-ground voice communications. NPSTC asserts that designating these channels for airborne use would allow licensees to incorporate air-ground communications into their operations while creating little risk of interference to ground-based operations. The NPRM seeks comment on whether to dedicate channels in the 700 MHz band for air-ground use, if the secondary trunking channels are the most appropriate channels for this purpose and if protection criteria is needed to ensure that airborne operations create no interfere to terrestrial users which could potentially increase costs and cause disruption to users in the band.

23. Nationwide Interoperability Travel Channel. The NPRM seeks comment on a NPSTC proposal to redesignate two nationwide calling interoperability channels as Nationwide Interoperability Travel Channels. NPSTC contends the travel channels would facilitate coordination of vehicle convoys transporting resources, assets, and personnel to major incidents, allowing first responders and equipment to be deployed to an area directly instead of having to first travel to a staging area. The NPRM seeks comment on NPSTC's proposal and whether the potential benefits of such a designation outweigh the potential adverse impact of reducing the overall channel capacity devoted to nationwide calling interoperability.

24. Tactical Voice Communications on Data Interoperability Channels. The NPRM seeks comment on a NPSTC proposal to allow tactical voice communications on a secondary basis on data-only interoperability channels. NPSTC argues such action would help meet the expanding demand for communications supporting tactical operations. The NPRM seeks comment on NPSTC's proposal and whether such a designation would have any adverse impact on primary

data-only interoperability. In this regard, the NPRM seeks comment on whether this proposal would have any impact on the existing base of mobile, portable, and base stations currently in use by public safety entities, such as requiring reprogramming or retrofits.

25. Temporary Deployable Mobile Trunked Infrastructure. The NPRM seeks comment on a NPSTC proposal to designate all 48 reserve channel pairs for use by temporary deployable mobile trunked infrastructure that could be transported into an incident area to assist with emergency response and recovery. According to NPSTC, designating channels for deployable trunked use would allow 700 MHz licensees to pre-program these channels into their subscriber radios, negating the need during a disaster to reprogram radios in the field or distribute cached radios. The NPRM seeks comment on whether designating some or all of the narrowband reserve channels for deployable mobile trunked infrastructure would be a practical and efficient utilization of these channels. Alternatively, the NPRM seeks comment on whether the same benefits could be achieved by simply requiring deployable equipment to operate on the narrowband channels already designated for general and/or state use in the affected area.

26. Power Limit for Low Power Channels. The NPRM seeks comment on a NPSTC proposal to increase the power limit on the low power channels from two watts to 20 watts effective radiated power (ERP). NPSTC argues that such an increase would allow for more effective on-scene communications in critical life-safety situations, particularly for fire department radios operating in high ambient noise environments. The NPRM seeks comment on whether NPSTC's proposal to increase the power limit to 20 watts ERP would overcome the problem of communicating in high ambient noise environments but also seeks comment on alternative solutions such as using vehicular repeater system (VRS) units to overcome the problem of communicating in noisy environments.

27. Project 25 Compliance Assessment Program. The NPRM seeks comment on requiring all 700 MHz narrowband equipment to be certified under the Project 25 Compliance Assessment Program (P25 CAP). The Commission states in the NPRM that it believes requiring all 700 MHz

narrowband equipment to be P25 CAP-certified would enhance interoperability in the band and would provide assurance to licensees that their equipment will be interoperable across vendors regardless of which vendor they choose. Nonetheless, the NPRM seeks comment on what costs, if any, P25 CAP certification would impose on vendors.

28. ACP Requirements for Class B Signal Boosters. The NPRM seeks comment on a proposal by Dekolink to exempt Class B signal boosters from the Adjacent Channel Power (ACP) requirements when multiple signals are retransmitted. Dekolink suggests that Class B signal boosters currently authorized to operate in the 700 MHz public safety narrowband spectrum typically produce intermodulation products in excess of ACP limits when simultaneously retransmitting two or more signals. The NPRM seeks comment whether exempting this class of devices from the ACP requirements when multiple signals are retransmitted would unreasonably elevate the potential for harmful interference to adjacent channel users. The NPRM also seeks comment on any technical limitations that prevent these devices from being designed and manufactured to meet the current ACP limits and whether compliance can be achieved through filters and/or other technical remedies.

29. Narrowband Power Limits. The NPRM seeks comment on harmonizing and consolidating power limits in §§ 90.541 and 90.545(b) of the Commission's rules. In this regard, the NPRM tentatively concludes to base power limits on effective radiated power (ERP) rather than transmitter power output (TPO) but seeks comment on whether a change in policy from TPO to ERP would render certain incumbent users or previously certified equipment non-compliant. The NPRM also seeks comment on antenna height limits.

30. Interoperability Network Access Code. The NPRM seeks comment on whether the Commission should specify a standardized Network Access Code (NAC) by rule for operation on the 700 MHz interoperability channels. The NAC is a pre-programmed digital address in a Project 25 radio which allows the radio to "hear" only communications directed to that address from another radio. If the NAC is to be set by rule, the NPRM seeks comment what code would

be most appropriate. Alternatively, the NPRM seeks comment on whether NACs should be left to an industry standard, which would be more flexible than codifying a single code into the Commission's rules.

31. User Access to Interoperability Channels. The NPRM proposes to clarify that transmitters designed to operate on the narrowband channels in the 700 MHz band be capable of being programmed to operate on all sixty-four of the 6.25 kilohertz bandwidth interoperability channels. The NPRM seeks comment on its proposal.

32. Analog Operation on the Interoperability Channels. The NPRM seeks comment on whether to permit users to operate their mobile and portable equipment in analog mode on the interoperability channels. In particular, the NPRM asks parties addressing this issue to describe what benefits may accrue from allowing analog operation on the interoperability channels and whether such benefits outweigh the impairment to interoperability resulting from allowing both analog and digital modes of operation on these channels.

G. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

33. None.

ORDERING CLAUSES

34. Accordingly, **IT IS ORDERED** that, pursuant to sections 1, 4(i), 303, 316, 332 and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303, 316, 332 and 337, the NPRM **IS HEREBY ADOPTED**.

35. **IT IS FURTHER ORDERED** that pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the NPRM on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

36. **IT IS FURTHER ORDERED** that the Commission **SHALL SEND** a copy of the NPRM in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

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